

Mr. Robert F. Williams
7039 Via Pradera
San Jose, CA 95139-1152

STATE OF CALIFORNIA

State Energy Resources
Conservation and Development Commission

In the Matter of:)	Docket No. 99- AFC-3
)	
Application for Certification for the)	Motions and Declarations by Robert F. Williams related to July 19, 2000 Status conference
)	
Metcalf Energy Center [Calpine Corporation and Bechtel Enterprises, Inc.])	

I. Purpose: This declaration and set of Motions is filed in specific response to the Metcalf AFC Committee order dated 6/22/2000 scheduling a status conference July 19, 2000. The order among other things required all parties intending to participate file written statements on seven specific issues.

- **This response gives notice that R.F. Williams intends to participate in the Status Conference, on July 19, 2000**
- **My previous set of Motions and Declarations mailed June 30, 2000 to the Metcalf US Mail Proof of Service, and filed electronically to the Email Metcalf Proof of Service is incorporated by reference, together with this filing that specifically addresses seven topics, constitutes my input to the Status Conference.**

II. Robert F. Williams hereby moves the Energy Commission issue orders regarding data submittals and/or schedule hearings and to resolve specific issues related to the Metcalf Application for certification. These are specifically outlined in the attached declaration and Motions, item II of the Metcalf Committee Order of 6/22/2000.

III. These motion is made on the grounds that:

See this Declaration and Motions attached, and the Declaration and Motions of June 30, 2000.

IV. The motion is based on the pleadings and records on file in this proceeding and the following:

- | | |
|-------------------------------------|-----------------------------------------------------------------------------------------|
| <input checked="" type="checkbox"/> | The attached declaration and Motion of July 10, 2000 |
| <input checked="" type="checkbox"/> | Previous Motions and Declaration of R F Williams mailed and Served June 30, 2000 |
| <input checked="" type="checkbox"/> | Oral and documentary evidence that may be presented at hearing of July 19, 2000 |

_____	_____
Date	Signature
<input checked="" type="checkbox"/>	Check box if continuation pages are attached. (Proof of service must be attached.)

DECLARATION AND MOTIONS
Robert F. Williams
July 10, 2000

I. GENERAL COMMENTS AND MEETING GROUNDRULES.

a. Lessons Learned from December 16, 1999 Status Conference.

This intervenor was travelling on business December 16, 1999 at the time of the last status conference by the Metcalf Committee. My review of the record, and the comments of local residents who participated indicated there were a number of misunderstandings on topics that could be discussed and general groundrules for the meeting.

1. A written set of groundrules should be issued prior to the meeting if at all possible, **with an agenda, identified speakers, and allowed times for various parties to speak.**

2. **Time allocations on the Agenda.** As shown in the table below, this party believes the meeting will require about 7 hours, not four as indicated in the present notice. Fortunately, since school is not in Session the meeting could be scheduled to run from 6 pm to 1 am, or alternatively scheduled to continue on a second day. Based on the alternatives shown in the table below, this party believes time should be fairly divided among the parties as follows:

Item	Option 1	Option 2	Option 3
CEC Staff	15 minutes per hour	CEC staff& committee 20 minutes per hour	CEC staff& committee 15 minutes per hour
MetcalfCommittee(MC)	15 minutes per hour		
The Applicant	15 minutes per hour	20 minutes per hour	15 minutes per hour
Intervenors - Intervenors - City of San Jose - Members of Public	15 minutes per hour (Public com all topics. 1 hour separate item)	20 minutes per hour (Public com all1 topics. 1 hour separate item)	25 minutes per hour (Public com all1 topics. 1 hour separate item)
Topic Closing (MC)	Included above	Included above	5 minutes closing

In view of the fact that the Metcalf committee can and should interrupt the other parties to ask clarifying questions, I believe Option 3 presents the most productive allocation of time.

IF ONE HOUR IS ALLOWED FOR EACH TOPIC, AND ONE HOUR FOR PUBLIC COMMENT ON ALL MATTERS, THE TIME REQUIRED IS 8 HOURS.

More time, and earlier start and a later finish, or a second day must be scheduled. It does not practical to this party to deal with the views of all parties in one half hour per topic.

3. **Reference to Technical issues.** Mention of technical issues should be **SPECIFICALLY ALLOWED**, but with the ground rule that the merit of the issue or topic is not to be litigated or decided at the meeting. **Discussion.** Generally speaking, if a party believes a particular issue requires a special hearing, or an order by the Metcalf Committee, or by the Full Commission, the party should be allowed to **BRIEFLY** state *the labels, the technical and factual basis* THAT IS THE BASIS FOR THE REQUEST.

To do otherwise is to make every parties comments in the Status Conference a series of Assertions

by the Metcalf Committee to determine Best Available Control Technology for the Metcalf Plant. The reasons for the request are as outlined in the CARE and CVRP submittals on the METCALF PDOC, and the CURE submittal at Elk Hills 99-AFC-1 May 15.

In some cases, the factual basis for the request requires some brief summarization, to weave together issues that are dispersed in comments by various parties on the PSA or elsewhere. ***In every case the intent of the technical reference is to provide a label that refers to the underlying reason for the requested schedule element, data submittal or special hearing, and all parties should recognize it is not the intent to adjudicate the issue at the status conference.***

NEVERTHELESS, BRIEF REFERENCE TO TECHNICAL ISSUES MUST BE ALLOWED.

4. Agenda Sequence. The sequence of topics is not logical if the order of the bulleted items in the Metcalf Committees Order of June 22 is followed.

Item (7) Other procedurally relevant matters should be taken first, specifically **my Motion that the Metcalf Committee schedule a hearing to reject the AFC now based on the Severe Unmitigable Adverse Impacts, and the lack of benefits that justify acceptance.**

The table below suggests a new sequence of topics taking the topics in the Status conference order, and re sequences them into the flow of engineering and environmental analysis activity of the project.

Table 1 –Sequence for Agenda Items

Topic and related Issue from Metcalf Committee 6/22 order	New seq	Old seq
1. Procedurally relevant Matters (a)- • Motion to schedule a Hearing to Reject AFC based on SUAI in PSA	1	7,6
2. Procedurally relevant Matters (Also part of original item 3 FDCO) • Motion to hold a hearing on Top Down BACT for Metcalf • Motion to hold a hearing on Wet Cooling tower permitting & dry vs wet	2	7,3,6
3. Pre Hearing events-Those occurring in Advance of Evidentiary Hearings • Motion of CVRP and other parties to require a second PSA	3	4,6
4. Procedurally relevant matters (Also part of item 6 pre hearing events) • Motion of Williams to hold Hearing to consider derate and shutdown suasion for violation of major Conditions of Compliance	4	6
5. Pre hearing events (in advance of new evidentiary hearings, issue of FDOC • Motion to set a date for a second PDOC or an FDOC by BAAQMD	5	3,6
6. Actions by other Agencies-City of San Jose, Federal Agencies, EPA, F&WL • Time for appeal to Federal EPA in the event there is no top down BACT , no Meteorological monitoring, and /or no hearing on wet cooling towers impacts • City of San Jose should not issue or contemplate PD zoning before the FSA.	6	2
7. Necessity for further Discovery • (New) Motion to request Metcalf Committee require the applicant state his design basis in two key areas prior to second PSA or FSA • Metcalf Committee should direct the applicant to state whether the design is proceeding with SCR or SCONOX and whether the design is proceeding with wet or Dry Cooling. towers	7	1
Note: There are numerous questions of discovery related to the above.		

II. Summary Statements on Specific Agenda Items.

Note that in Item I above this party has suggested a more logical sequence of comments and the issues, and comments are provided on each requested comment area as follows:

1. Procedurally Relevant Matters.- Motion to schedule hearing to reject now.

This party contends that there is sufficient information in the PSA to conclude there are many severe unmitigable adverse impacts (SUAI), (See June 30, 2000 particularly Table 1 page 5-9, and brief page 9 to 16.).

Motion 1: The Metcalf Committee in the next schedule order should schedule a Hearing to consider rejecting the METCALF AFC based on the facts that are known today

2a. The issuance of an FDOC for the BAAQMD (3) and procedurally relevant Matters (7)

Further consideration of Air quality compliance must be proceeded by four inter-related actions, based on well documented contentions of various interested parties.

- **Order for performance of a top down Best Available Control Technology** analysis as outlined by CVRP, CARE comments on the METCALF PDOC, and on the METCALF PSA.. Explanation needs to be offered as to why California PM10 release limits are apparently not enforced.
 - **Order for Hearing to show cause why one year of at site monitoring should not be ordered** in accordance with Federal EPA Guidance, and in accordance with BAAQMD criteria for such monitoring when PSD is exceeded. Some parties alleged applicant has submitted releases below the trigger level for such monitoring without adequate bases and has failed to consider secondary PM10 from ammonia releases in estimating PM10.
 - **Order for hearing on Cooling tower permitting and related issues of** (1) particulate from the cooling tower, (2) duration of visual impacts from the plume, (3) dispersal of toxic species from cooling tower including agents formed by super chlorination, (4) water deposition in the environs of Coyote Valley and South San Jose due to weather conditions, and (5) effects of extra humidity on the climate and comfort of citizens in South San Jose and in Coyote Valley from Tulare Hill to Morgan Hill
 - **Order for hearing on the aerodynamic effects of Tulare Hill,** to address whether stacks and cooling tower heights are great enough to escape wake effects of Tulare Hill, and unanticipated more severe down wash of stack gas and cooling tower plumes into the office park. See CARE on PDOC pp. 66-69.
- a) Note that • item 1 will arguably require a shift to SCONOX. If applicant alleges SCONOX level releases can be obtained with SCR technology, than very stringent enforcement measures are required.
- b) Note that resolution of • items 3 and 4 requires some information from • item 2.
- c) Note that significant moisture deposition will change the entire analysis of the effects of the MEC plant on the spotted butterfly, and the NOx deposition issue generally. Substantial water deposition has not been evaluated. I allege it may and indeed will occur under certain meteorological conditions.
- d) Note the effect of higher humidity on the quality of life in South San Jose and Coyote valley has not yet been addressed. Most of the homes in this area do not have air conditioning.

**2b. The issuance of an FDOC for the BAAQMD (3) and procedurally relevant Matters (7),
DIRECT EFFECTS OF THE PLUME**

This party contends that some of the Water related issues can and should be heard as part of the review of Air quality impacts. These issues related to several inter-related technical contentions:

- **Significant particulate** will be carried into the environs of the office park because of cooling tower drift, and high dissolved solids.
- **Significant byproducts of sewage super chlorination** will be present including PCB's, dioxin.
- **Significant water deposition** will occur including but not limited to more frost, dripping and drizzle, and more airborne fog or ground fog.
- **Significant humidification** of the atmosphere will occur due to the release of 28, 000 TONS per day of water. These effects have not been sufficiently considered and evaluated, both from the potential impact on spotted butterflies, the effect on the comfort of the local climate due to higher humidity, and the **visual impacts of condensing gases as they leave the plant.**

**2c. The issuance of an FDOC for the BAAQMD (3) and procedurally relevant Matters (7)
WET COOLING AND WHERE DOES THE WATER COME FROM.**

The issue of where the cooling water comes from to feed the wet cooling towers raises a host of inter-related and as yet unresolved issues related to groundwater modeling, the effects of drought, the share of the ground water the plant should receive during a 2 year and a five year drought, and the effect of long term deposition of toxic species from the plume into the recharge of the San Jose confined aquifer.

These issues (and many others) would be avoided if the applicant elected dry cooling, if only to abate the substantial unacceptable plume visibility impacts.

However, as long as wet cooling and use of 16,000 tons per day of water is anticipated, numerous modeling, well draw down test, certification of priority and availability of imported water, the effect of the toxic material from plume deposition on the water supply, and related issues pertain.

3. Prehearing Events(6) and Reissuing the PSA (4) in advance of evidentiary Hearings.

The motion of CVRP should be granted, and the Metcalf Committee should order a second PSA, for the reasons stated in the CVRP petition, and for reasons summarized here.

It is highly likely, in the opinion of this party, that the hearings conducted on "top down" BACT, on at site meteorological monitoring, on the impacts of wet cooling at this site, and on the uncertain availability of water, that the applicant must make major design changes. **These prospective design changes require a plan for a second PSA, and for related discovery appropriate for the new design features.**

If the applicant decides to tough it out, then the ammonia from the SCR and the wet cooling tower impacts, and water shortage issues become additional reasons to reject the AFC at nearly the present stage of analysis. These become significant unmitigable adverse impacts (due to the applicants intransigence) that are a basis for rejection.

DILEMMA 1. There is a dilemma that has no easy solution for the applicant. Stick with the present design that uses ammonia, and deal with all the hazards of ammonia shipment, grade separation for all shipments, compliance with the well head protection act, tough CoC if the applicant tries to promise the last few "drops" of availability for SCR systems, or recognize and accept SCANOX

DILEMMA 2 Try to (a) **stick with wet cooling**, and (1) resolve all the groundwater issues related to drought EIS for Linear facilities (the Pipeline) lack of right away, need for well pump down test, negotiation of drought year water commitments, and (2) the air quality issues related cooling summarized above, or (b) **move to dry cooling**. Slightly more space, a new plant footprint, somewhat lower output but still extremely profitable, cost of \$25 Million roughly a push with cost of the recycle water line of \$25 to \$ 30 Million. **Note the applicant has a detailed dry cooling design in progress at Sutter.**

4. Procedurally Relevant Matters(7) Also part of 4 Prehearing events.

• **Motion of Williams to hold Hearing to consider derate and shutdown suasion for violation of major Conditions of Compliance.** See Declaration and Motion of June 30,2000 including Appendix 1.

If the applicant chooses to stick with the obsolete or nearly obsolete design using SCR, and to make speculative promises about the lack of visibility of cooling tower and exhaust gas plumes, and further to provide such guarantees with little evidence available to the public or the CEC, then the applicant should be denied the escape clause of “commercial impracticality” and forced to live by his promises or shutdown.

a) **There are too many permutations and combinations of technology, SCR vs SCONOX, wet tower vs dry tower, amounts of cooling tower drift, water deposition on hills and endangered species, to propose detailed conditions of compliance now. This requires a second PSA when we finally know what the design is.**

b) **Conditions of compliance that require shutdown or operation at part load when agreed technical triggers are met must be documented and the subject of detailed hearing and comments. Detailed consideration is required to close the loopholes, “No one considered _____(this item)_____ when we agreed to shutdown or derate for this factor.**

c) **A complete PSA is required, not the piecemeal submission of separate chapters and analysis.**

The coordination between several subject areas of the PSA is limited at best. For example the occurrence of offsite transportation accidents cross cuts several chapters. The issues in air analysis cross cut several chapters, including air quality, water quality, and impact on endangered species.

MOTION: In the event this project continues, the Metcalf committee should order a complete PSA with complete and timely integration of issues between various technical disciplines.

A partial PSA, or merely a revised PDOC is not suitable on this project, for reasons stated.

6. OVERALL SCHEDULE –Including Actions be other agencies.

Table 2 on the following pages converts the requested topics of the agenda to potential schedule dates up to the time of the Prehearing conference.

For reasons stated here, and more completely by CVRP in the motion to require a second PDOC and a Second PSA, **it is nearly impossible to determine what would be an area of contention, and what would be substantially resolved until more work is done and documented in a second PSA.** This party, and I suspect other parties, have no way of determining where expert testimony will be required, or conversely where the parties can agree with the staff position, **until the applicant comes up with his ‘final answer’** and the CEC staff and the interested parties have a chance to evaluate it as a whole.

Table 2
Prospective Schedule up to the Second PSA
Table 1 –Sequence for Agenda Items

Topic and related Issue from Metcalf Committee 6/22 order	New seq	Old seq
1. Procedurally relevant Matters (a)- <ul style="list-style-type: none"> • Motion to schedule a Hearing to Reject AFC based on SUAI in PSA 	1	7,6
2. Procedurally relevant Matters (Also part of original item 3 FDCO) <ul style="list-style-type: none"> • Motion to hold a hearing on Top Down BACT for Metcalf • Motion to hold a hearing on Wet Cooling tower permitting & dry vs wet 	2	7,3,6
3. Pre Hearing events-Those occurring in Advance of Evidentiary Hearings <ul style="list-style-type: none"> • Motion of CVRP and other parties to require a second PSA 	3	4,6
4. Procedurally relevant matters (Also part of item 6 pre hearing events) <ul style="list-style-type: none"> • Motion of Williams to hold Hearing to consider derate and shutdown suasion for violation of major Conditions of Compliance 	4	6
5. Pre hearing events (in advance of new evidentiary hearings, issue of FDOC <ul style="list-style-type: none"> • Motion to set a date for a second PDOC or an FDOC by BAAQMD 	5	3,6
6. Actions by other Agencies-City of San Jose, Federal Agencies, EPA, Fish and Wild Life Service. <ul style="list-style-type: none"> • Time for appeal to Federal EPA in the event there is no top down BACT , no Meteorological monitoring, and /or no hearing on wet cooling towers impacts • City of San Jose should not issue or contemplate PD zoning before the FSA. 	6	2
7. Necessity for further Discovery <ul style="list-style-type: none"> • (New) Motion to request Metcalf Committee require the applicant state his design basis in two key areas prior to second PSA or FSA • Metcalf Committee should direct the applicant to state whether the design is proceeding with SCR or SCONOX and whether the design is proceeding with wet or Dry Cooling. towers 	7	1
Note: There are numerous questions of discovery related to the above.		

II. Summary Statements on Specific Agenda Items.

Note that in Item I above this party has suggested a more logical sequence of comments and the issues, and comments are provided on each requested comment area as follows:

1. Procedurally Relevant Matters.- Motion to schedule hearing to reject now.

This party contends that there is sufficient information in the PSA to conclude there are many severe unmitigable adverse impacts (SUAI), (See June 30, 2000 particularly Table 1 page 5-9, and brief page 9 to 16.).

Motion 1: The Metcalf Committee in the next schedule order should schedule a Hearing to consider rejecting the METCALF AFC based on the facts that are known today. [See Appendix 1 for a summary argument].

2a. The issuance of an FDOC for the BAAQMD (3) and procedurally relevant Matters (7)

Further consideration of Air quality compliance must be proceeded by four inter-related actions, based on well documented contentions of various interested parties.

- **Order for performance of a top down Best Available Control Technology** analysis as outlined by CVRP, CARE comments on the METCALF PDOC, and on the METCALF PSA.. Explanation needs to be offered as to why California PM10 release limits are apparently not enforced.
- **Order for Hearing to show cause why one year of at site monitoring should not be ordered** in accordance with Federal EPA Guidance, and in accordance with BAAQMD criteria for such monitoring when PSD is exceeded. Some parties alleged applicant has submitted releases below the trigger level for such monitoring without adequate bases and has failed to consider secondary PM10 from ammonia releases in estimating PM10.
- **Order for hearing on Cooling tower permitting and related issues of** (1) particulate from the cooling tower, (2) duration of visual impacts from the plume, (3) dispersal of toxic species from cooling tower including agents formed by super chlorination, (4) water deposition in the environs of Coyote Valley and South San Jose due to weather conditions, and (5) effects of extra humidity on the climate and comfort of citizens in South San Jose and in Coyote Valley from Tulare Hill to Morgan Hill
- **Order for hearing on the aerodynamic effects of Tulare Hill,** to address whether stacks and cooling tower heights are great enough to escape wake effects of Tulare Hill, and unanticipated more severe down wash of stack gas and cooling tower plumes into the office park. See CARE on PDOC pp. 66-69.

- a) Note that • item 1 will arguably require a shift to SCONOX. If applicant alleges SCONOX level releases can be obtained with SCR technology, than very stringent enforcement measures are required.
- b) Note that resolution of • items 3 and 4 requires some information from • item 2.
- c) Note that significant moisture deposition will change the entire analysis of the effects of the MEC plant on the spotted butterfly, and the NOx deposition issue generally. Substantial water deposition has not been evaluated. I allege it may and indeed will occur under certain meteorological conditions.
- d) Note the effect of higher humidity on the quality of life in South San Jose and Coyote valley has not yet been addressed. Most of the homes in this area do not have air conditioning.

**2b. The issuance of an FDOC for the BAAQMD (3) and procedurally relevant Matters (7),
DIRECT EFFECTS OF THE PLUME**

This party contends that some of the Water related issues can and should be heard as part of the review of Air quality impacts. These issues related to several inter-related technical contentions:

- **Significant particulate** will be carried into the environs of the office park because of cooling tower drift, and high dissolved solids.
- **Significant byproducts of sewage super chlorination** will be present including PCB's, dioxin.
- **Significant water deposition** will occur including but not limited to more frost, dripping and drizzle, and more airborne fog or ground fog.
- **Significant humidification** of the atmosphere will occur due to the release of 28, 000 TONS per day of water. These effects have not been sufficiently considered and evaluated, both from the potential impact on spotted butterflies, the effect on the comfort of the local climate due to higher humidity, and the **visual impacts of condensing gases as they leave the plant.**

**2c. The issuance of an FDOC for the BAAQMD (3) and procedurally relevant Matters (7)
WET COOLING AND WHERE DOES THE WATER COME FROM.**

The issue of where the cooling water comes from to feed the wet cooling towers raises a host of inter-related and as yet unresolved issues related to groundwater modeling, the effects of drought, the share of the ground water the plant should receive during a 2 year and a five year drought, and the effect of long term deposition of toxic species from the plume into the recharge of the San Jose confined aquifer.

These issues (and many others) would be avoided if the applicant elected dry cooling, if only to abate the substantial unacceptable plume visibility impacts.

However, as long as wet cooling and use of 16,000 tons per day of water is anticipated, numerous modeling, well draw down test, certification of priority and availability of imported water, the effect of the toxic material from plume deposition on the water supply, and related issues pertain.

3. Prehearing Events(6) and Reissuing the PSA (4) in advance of evidentiary Hearings.

The motion of CVRP should be granted, and the Metcalf Committee should order a second PSA, for the reasons stated in the CVRP petition, and for reasons summarized here.

It is highly likely, in the opinion of this party, that the hearings conducted on top down BACT, on at site meteorological monitoring, on the impacts of wet cooling at this site, and on the uncertain availability of water, that the applicant must make major design changes. These prospective design changes require a plan for a second PSA, and for related discovery appropriate for the new design features.

If the applicant decides to tough it out, then the ammonia from the SCR and the wet cooling tower impacts, and water shortage issues become additional reasons to reject the AFC at nearly the present stage of analysis. These become significant unmitigable adverse impacts (due to the applicants intransigence) that are a basis for rejection.

DILEMMA 1. There is a dilemma that has no easy solution for the applicant. Stick with the present design that uses ammonia, and deal with all the hazards of ammonia shipment, grade separation for all shipments, compliance with the well head protection act, tough CoC if the applicant tries to promise the last four "drops" of availability for SCR systems, or recognize and accept SCNOX

DILEMMA 2 Try to (a) **stick with wet cooling**, and (1) resolve all the groundwater issues related to drought EIS for Linear facilities (the Pipeline) lack of right away, need for well pump down test, negotiation of drought year water commitments, and (2) the air quality issues related cooling summarized above, or (b) **move to dry cooling**. Slightly more space, a new plant footprint, somewhat lower output but still extremely profitable, cost of \$25 Million roughly a push with cost of the recycle water line of \$25 to \$ 30 Million. **Note the applicant has a detailed dry cooling design in progress at Sutter.**

4. Procedurally Relevant Matters(7) Also part of 4 Prehearing events.

• **Motion of Williams to hold Hearing to consider derate and shutdown suasion for violation of major Conditions of Compliance.** See Declaration and Motion of June 30,2000 including Appendix 1.

If the applicant chooses to stick with the obsolete or nearly obsolete design using SCR, and to make speculative promises about the lack of visibility of cooling tower and exhaust gas plumes, and further to provide such guarantees with little evidence available to the public or the CEC, then the applicant should be denied the escape clause of “commercial impracticality” and forced to live by his promises or shutdown.

a) **There are too many permutations and combinations of technology, SCR vs SCONOX, wet tower vs dry tower, amounts of cooling tower drift, water deposition on hills and endangered species, to propose detailed conditions of compliance now. This requires a second PSA when we finally know what the design is.**

b) **Conditions of compliance that require shutdown or operation at part load when agreed technical triggers are met must be documented and the subject of detailed hearing and comments. Detailed consideration is required to close the loopholes, “No one considered _____(this item)_____ when we agreed to shutdown or derate for this factor.**

c) **A complete PSA is required, not the piecemeal submission of separate chapters and analysis.**

The coordination between several subject areas of the PSA is limited at best. For example the occurrence of offsite transportation accidents cross cuts several chapters. The issues in air analysis cross cut several chapters, including air quality, water quality, and impact on endangered species.

MOTION: In the event this project continues, the Metcalf committee should order a complete PSA with complete and timely integration of issues between various technical disciplines.

A partial PSA, or merely a revised PDOC is not suitable on this project, for reasons stated.

6. OVERALL SCHEDULE –Including Actions by other agencies.

A. Table 2 on the following pages converts the requested topics of the agenda to potential schedule dates up to the time of the Prehearing conference.

For reasons stated here, and more completely by CVRP in the motion to require a second PDOC and a Second PSA, **it is nearly impossible to determine what would be an area of contention, and what would be substantially resolved until more work is done and documented in a second PSA.** This party, and I suspect other parties, have no way of determining where expert testimony will be required, or conversely where the parties can agree with the staff position, **until the applicant comes up with his ‘final answer’** and the CEC staff and the interested parties have a chance to evaluate it as a whole.

Table 2 –DRAFT Schedule Elements

Topic and related Issue from Metcalf Committee 6/22 order	Time (0=now)	Date (Approx)
1. Procedurally relevant Matters (a)- • New Schedule order of the Metcalf Committee • Motion to schedule a Hearing to Reject AFC based on SUAI in PSA	2 weeks 4 weeks	7/31 8/15-30
2. Procedurally relevant Matters (Also part of original item 3 FDCO) • hold a hearing on Top Down BACT for Metcalf • hold a hearing on Wet Cooling tower permitting & dry vs wet	4 to 6 wk ditto or + 1 wk	9/1 to 15 9/7 to 21
3. Pre Hearing events-Those occurring in Advance of Evidentiary Hearings • Hearing on the CVRP and other motion for a second PSA	Note 1 8-10 wk	10/9 to 20
5. Pre hearing events (in advance of new evidentiary hearings, issue of FDOC • Status conference set a date for a second PDOC or an FDOC by BAAQMD-(depends on BACT, Met and Cooling tower hearing)		
5. Procedurally relevant matters (Also part of item 6 pre hearing events) • Hearing to consider derate and shutdown suasion for violation of major Conditions of Compliance (I guess a second PSA with SCR and dry cooling and flow through of changes can be available by about Jan 15.)	Note 2 Guess 20-24 wk	Jan 15 to Feb 30
5.b Another Status conference		About 1/15
6. Actions by other Agencies-City of San Jose, Federal Agencies, EPA, F&WL • Time for appeal to Federal EPA in the event there is on top down BACT , on Meteorological monitoring, /or no hearing wet cooling towers impacts • City of San Jose should not issue or contemplate PD zoning before the FSA.	EPA appeal if no BACT	
7. Necessity for further Discovery • (New) Motion to request Metcalf Committee require the applicant state his design basis in two key areas prior to second PSA or FSA • Metcalf Committee should direct the applicant to state whether the design is proceeding with SCR or SCONOX and whether the design is proceeding with wet or Dry Cooling. towers Note: There are numerous questions of discovery related to the above.	YES About 4 weeks after BACT hearings	

Note 1: Hearing on need for second PSA best conducted after hearing and order on BACT, at site meteorology, and Wet Cooling tower impacts. Hearing order assumed 10 days after hearing.

Note 2: **This hearing date depends on the final design choices of the applicant, and can follow the second PSA by one month.** Is it SCR or SCONOX, is it Wet or Dry cooling.

It then assumes the PDOC is done, and biologic resources and other dependent areas have revised their material. It depends on resolution of ground water related issues if wet cooling is still design basis.

B. Additional comments on the draft Schedule Table 2.

Failure to mitigate Severe Impacts, judged by the staff to be mitigable but not yet mitigated, should be a test of completeness of the second PSA, and so stated in the new schedule order.

The applicant should not be allowed to continue his design decision making process in a public arena, on a one change at a time basis.

FAILURE TO MITIGATE SEVERE IMPACTS, NOT YET MITIGATED, (Table 1 column 3 of my June 30, 2000 should be cause to hold a second hearing to reject the AFC, as in item 1 above.

I MOVE the CEC Metcalf Committee so order.

C. Major contention- Need for At site Meteorological data prior to the FSA. Delays Project 1 year. FDOC and FSA in Fall 2001

It is the contention of this party, and can be addressed in the course of the hearings on the BACT, and Meteorology, and Wet Cooling permitting, that on site meteorological monitoring must be conducted for one year before the accuracy of the predictions on plume down wash of exhaust gas and cooling tower effluent into the office park, plume deposition on Tulare Hill and environs, particulate deposition on Tulare Hill and environs, and related matters are addressed.

The applicant was requested as far back as August 1999 to conduct on site measurements. BAAQMD issued a preliminary requirement for monitoring because in an effort to disguise the exhaust gas stack with louvers, the PSD for monitoring was triggered. Applicant subsequently juggled numbers to escape the BAAQMD requirement, but the national EPA guidance should be operative. See CARE pp. 66-69.

The applicant should now be required to do what he failed to do earlier. He should not be rewarded for dilatory tactics on monitoring by being allowed to avoid the requirement. If monitoring had started at the time of the AFC submittal the data would now be available.

Accordingly, the FDOC should not be issued, nor should an FSA be completed until one year of monitoring data has been collected at the Plant Site, and on Tulare Hill, at locations to be determine in the BACT and related meteorological hearings.

Motion: It is so moved that the Metcalf Committee so order.

D. FSA in Fall 2001 due to Groundwater and related issues

The practical impact is that for meteorological and hydrology issues, the FDOC and the FSA can be issued some time in Fall 2001. **This is also consistent with schedules to resolve hydrology issues, such as well pump test, an EIR and right f way determination for linear facilities for the SCVWD recycle water, and resolution of drought year and other water related issues** including well head protection under the EPA well head protection act, and potential subsidence concerns from groundwater overdraft in the 5 year drought scenario.

See TABLE 3. A more realistic schedule. Will the CEC allow such major issues to remain pending after the issuance of an FSA? I hope not, because hearings and approvals have to rely on promises and representations based on incomplete analysis.

Table 3.
A More Realistic Schedule for the FSA
September 2001

Table 2 –DRAFT Schedule Elements

Topic and related Issue from Metcalf Committee 6/22 order	Time (0=now)	Date (Approx)
1. Procedurally relevant Matters (a)- • New Schedule order of the Metcalf Committee • Motion to schedule a Hearing to Reject AFC based on SUAI in PSA	2 weeks 4 weeks	7/31 8/15-30
2. Procedurally relevant Matters (Also part of original item 3 FDCO) • hold a hearing on Top Down BACT for Metcalf • hold a hearing on Wet Cooling tower permitting & dry vs wet	4 to 6 wk ditto or + 1 wk	9/1 to 15 9/7 to 21
3. Pre Hearing events-Those occurring in Advance of Evidentiary Hearings • Hearing on the CVRP and other motion for a second PSA	Note 1 8-10 wk	10/9 to 20
4. Pre hearing events (in advance of new evidentiary hearings, issue of FDOC • Status conference set a date for a second PDOC or an FDOC by BAAQMD-(depends on BACT, Met and Cooling tower hearing)		
One year period for at site meteorology, and groundwater modeling tests, including well pumping and draw down, resolution of negotiations on salt return, resolution of drought year allocations, and a public process for the recycle water pipeline EIR	About 1 year	
5. Procedurally relevant matters (Also part of item 6 pre hearing events) • Hearing to consider derate and shutdown suasion for violation of major Conditions of Compliance (I guess a second PSA with SCR and dry cooling and flow through of changes can be available by about Jan 15.)	Guess 1 year 20-24 wk	Jan 15 to March 15
5.b Another Status conference	Every 3 months	About 1/15
6. Actions by other Agencies-City of San Jose, Federal Agencies, EPA, F&WL • Time for appeal to Federal EPA in the event there is on top down BACT , on Meteorological monitoring, /or no hearing wet cooling towers impacts • City of San Jose should not issue or contemplate PD zoning before the FSA.	Now plenty of time EPA appeal if no BACT	Dec to June 2000
7. Necessity for further Discovery • (New) Motion to request Metcalf Committee require the applicant state his design basis in two key areas prior to second PSA or FSA • Metcalf Committee should direct the applicant to state whether the design is proceeding with SCR or SCONOX and whether the design is proceeding with wet or Dry Cooling. towers Note: There are numerous questions of discovery related to the above.	YES About 4 weeks after BACT hearings	 He can now delay one more year before deciding

Note 1: **Hearing on need for second PSA best conducted after hearing and order on BACT, at site meteorology, and Wet Cooling tower impacts.** Hearing order assumed 10 days after hearing.

Note 2: **This hearing date depends on the final design choices of the applicant, and can follow the second PSA by one month** Is it SCR or SCONOX is it Wet or Dry cooling

Declaration: The material in this declaration is based on the pleadings and records on file in this proceeding and the following:

- | | |
|----------|-----------------------------------------------------------------------------------------|
| x | The above declaration and Motions of July 10, 2000 |
| x | Previous Motions and Declaration of R F Williams mailed and Served June 30, 2000 |
| x | Oral and documentary evidence that may be presented at hearing of July 19, 2000 |

This material is true and accurate to my best knowledge and belief.

_____**July 10,2000**_____
Date

original signed by R F Williams
Signature

x	Proof of service is attached, Metcalf USMail, and Metcalf Email where noted
----------	------------------------------------------------------------------------------------

I, __GLWilliams__, declare that on __July 10,2000_____, I deposited in the United States mail, copies of the attached _____Motion and Declaration_____ with first class postage thereon fully prepaid and addressed to the following: US Mail, except whee noted Email was used.

DOCKET UNIT

Send the original signed document plus 1 copies to the following address:

CALIFORNIA ENERGY COMMISSION

Attn: Docket No. 99-AFC-3

DOCKET UNIT, MS-4
1516 Ninth Street
Sacramento, CA 95814-5512

E-mail:
docket@energy.state.ca.us

In addition to the documents sent to the Commission Docket Unit, also send individual copies of all documents to:

APPLICANT

Ken Abreu
Calpine Corporation
6700 Koll Center
Parkway, Suite 200
Pleasanton, CA 94566
Requires U.S. Mail

Counsel for Applicant

Jeffrey D. Harris, Esq.
Ellison & Schneider
2015 H Street
Sacramento, CA 95814
Requires U.S. Mail

INTERVENORS

California Unions for Reliable Energy (CURE)
Marc D. Joseph
Adams, Broadwell, Joseph & Cardozo
651 Gateway Boulevard, Suite 900
South San Francisco, CA 94080
E-mail:
mdjoseph@adamsbroadwell.com

City of Morgan Hill
David Jenkins, City Manager
Council Member Cynthia J. Cook
Council Member Steve Tate
17555 Peak Avenue
Morgan Hill, CA 95037
E-mail:

hill.ca.gov
E-mail: cynjcook@aol.com
E-mail: tate@us.ibm.com

Elizabeth Cord
Santa Teresa Citizens Action Group
286 Sorenta Way
San Jose, CA 95119-1437
E-mail: staction@aol.com

Scott & Donna Scholz
6464 San Anselmo Way
San Jose, CA 95119-1928
E-mail:
sascholz@southsanjose.com

Jeffrey Wade
7293 Forsum Road
San Jose, CA 95138
E-mail:
jeff.wade@imco.com

Californians for Renewable Energy
C/O Michael E. Boyd
821 Lakeknoll Drive
Sunnyvale, CA 94089
E-mail:
mike.boyd@aspect.com

Paul R. Burnett
1960 Llagas Road
Morgan Hill, CA 95037
E-mail:
pburnett@garlic.com

Robert F. Williams
7039 Via Pradera
San Jose, CA 95139-1152
E-mail:
williams4064@earthlink.net

T.H.E. P.U.B.L.I.C.
William J. Garbett, Agent
P.O. Box 36132
San Jose, CA 95158-6132
Requires U.S. Mail

James L. Cosgrove
321 Viscaino Way
San Jose, CA 95119
E-mail:
jimcos42@worldnet.att.net

Michael Murphy
6188 Ansdell Way
San Jose, CA 95123
E-mail:
murphysmailbox@juno.com

Michael A. Grothus
484 Curie Drive
San Jose, CA 95123
E-mail: mgrothus@aol.com

Rancho Santa Teresa Swim & Racquet Club

Ph.D.
6416 San Anselmo Way
San Jose, CA 95119
E-mail:
drj@pacbell.net

*Counsel for Coyote Valley Research Park, LLC, and Coyote Valley Properties, LLC:

Dian M. Grueneich, J.D.
Irene K. Moosen, J.D.
Kelly R. Tilton,, J.D.
Grueneich Resource Advocates
582 Market Street, Suite 1020
San Francisco, CA 94104
E-mail:
dgrueneich@gralegal.com

*Randolph F. Lamb, V.P.
Gibson, Speno, LLC
60 South Market St., Suite 1120
San Jose, CA 95113-2369
Requires U.S. Mail

*David Marcus
P.O. Box 358
Berkeley, CA 94701-0358
Requires U.S. Mail

CVRP
c/o Divco West Properties, LLC
Attn: Mr. Vic Fracaro
150 Almaden Blvd., Suite 700
San Jose, CA 95113
E-mail:
vfracaro@divco.com

Laurel Prevetti
Requires U.S. Mail
Kent Edens
Planning Department
City of San Jose
801 N. First Street, Room 400
San Jose, CA 95110
E-mail:
kent.edens@ci.sj.ca.us

II
City of San Jose
Department of Planning,
Building and Code
Enforcement
801 N. First Street,
Room 400
San Jose, CA 95110-1795
E-
mail:janis.moore@ci.sj.c
a.us

Independent System
Operator
Steve Mavis, Manager
151 Blue Ravine Road
Folsom, CA 95630
E-mail:pmackin@caiso.com

James McDonald,
Principal
Encinal Elementary
School
9530 N. Monterey Rd.
Morgan Hill, CA 95037
E-
mail:pjfoehr@encinal.mhu
.k12.ca.us

Supervisor Don Gage
Santa Clara County
70 West Hedding
San Jose, CA 95110
Requires U.S. Mail

Councilmember Charlotte
Powers
City of San Jose
801 North First Street
San Jose, CA 95110
E-
mail:andrew.mendoza@ci.s
j.ca.us

William deBoisblanc,
Director Permit Services
Bay Area Air Quality
Mgmt. District
939 Eillis Street
San Francisco, CA 94109
E-
mail:wdeboisblanc@baaqmd
.gov

Luis Jaimes
Santa Clara Valley Water
District
5750 Almaden Expressway
San Jose, CA 95118-3686
E-
mail:ljaimes@scvwd@dsp.c
a.us

Michael Lopez, Planning
Office
Santa Clara County Govt.
Center

Wing, 7th Floor
San Jose, CA 95110-1705
E-
mail:rachael.gibson@pln.c
o.Scl.ca.us

Electricity Oversight
Board
Gary Heath, Executive
Director
770 L Street, Suite 1250
Sacramento, CA 95814
E-mail:tflynn@eob.ca.gov

***Paul Clannon, Director**
Energy Division
555 Van Ness Avenue
California Public
Utilities Commission
San Francisco, CA 94102
E-mail:pac@cpuc.ca.gov

Michelle Geary
Guadalupe-Coyote Resource
Conservation District
888 North First Street,
Room 204
San Jose, CA 95112
E-
mail:rteeter@ncal.verio.c
om

California Air Resources
Board (CARB)
Project Assessment Branch
P.O. Box 2815
Sacramento, CA 95812
E-
mail:rmenebro@arb.ca.gov

I declare that under
penalty of perjury
that the foregoing is
true and correct.

____Original signed by Gl
Williams _____
(Signature)

* * * *

ENERGY COMMISSION
INTERNAL DISTRIBUTION
LIST ONLY!

Parties DO NOT mail to
the following
individuals.
The Energy Commission
Docket Unit will
internally

filed in this case
to the following:

ROBERT A. LAURIE,
Commissioner
Presiding Member
MS-31

WILLIAM J. KEESE,
Commissioner
Associate Member
MS-32

Stanley Valkosky
Hearing Officer
MS-9

Paul Richins
Project Manager
MS-15

Kerry Willis
Staff Counsel
MS-14

Jonathan Blee
Assistant Chief
Counsel
MS-14

PUBLIC ADVISER

Roberta Mendonca
Public Adviser
MS-12